



## Guidelines for dealing with Complaints

Tasman Rugby Union Clubs often need to deal with complaints that affect players, coaches and managers, parents and Committee or Club members. If the Club does not act fairly and appropriately, the affected people will feel aggrieved, and may make a formal complaint or take the issue to the media or social media. Taking a little extra time to get the process and the decision right can save time and stress in the long run.

These guidelines have been written by NZR and the Independent Complaints Service Manager to help Clubs to deal with any complaints in an efficient and effective way. They are not regulations or compulsory and are intended as general guidance only.

### What to do when a complaint is received?

1. Make sure you have the whole story, directly from the person making the complaint (the “Complainant”) (rather than second-hand) and in writing if possible. A serious complaint should not be ignored however just because the Complainant doesn’t want to put it in writing.
2. Ask the Complainant what they want done – sometimes it might be as simple as an apology, sometimes they might just want the Club/Union to be aware of the situation.
3. Ensure the Complainant understands that if the matter is to be taken further, details of their complaint, usually including their name, will need to be given to the person who the complaint is about (the “Respondent”).
4. Check whether there are any written rules or a Club constitution that apply to the situation. Obviously if there are written rules, these should be followed.
5. Is the complaint an allegation of Misconduct under the NZR disciplinary rules (the “Black Book – go to [www.nzrugby.co.nz/NZRU Black Book](http://www.nzrugby.co.nz/NZRU%20Black%20Book)). If so, the complaint should be made to the Provincial Union in writing, and a formal hearing may be required.
6. Consider whether further investigation is required. Are there other witnesses who could be spoken to about what happened? Keep a written record of what is said.
7. If the complaint is about criminal behaviour, the Complainant should be encouraged to report the matter to the Police.

### Is a formal hearing required?

In a lot of cases, it may be possible to reach an informal resolution where a senior member of the Club (President, Club Captain etc) talks through the issue and helps the parties to sort out their problem. For this to be fair, all parties need to be heard and feel it is a reasonable approach. Often people just want to be heard and have a low-key conversation to sort out a situation.

However, if a complaint is serious or can’t be resolved informally, a fair investigation and resolution process should be followed. If the Club cannot resolve the situation, it may need to be elevated to the Tasman Rugby Union CEO for assistance.

In more serious situations, including situations involving employment matters, it can be appropriate to get legal advice as early in the process as possible. The Tasman Rugby Union have a service available



## Respondents Rights

As the name suggests, the Respondent has the right to respond, and to do this he or she needs to know what the complaint is, and what information the decision-maker will be considering. Ordinarily this means giving the Respondent a copy of the complaint, copies of any statements made by witnesses (or notes of conversations), and copies of any other evidence.

The Respondent should then have a fair opportunity to explain his or her version of events. If the Respondent doesn't take this opportunity however, it shouldn't be taken as an admission of guilt, especially if the allegations or potential consequences are serious.

Cross-examination (where the Respondent gets to question the Complainant or the other witnesses) would normally be reserved for only the most formal hearings. The decision-maker however can "test" the accuracy and reliability of any information provided by asking appropriate questions, including reasonable questions that the Respondent has requested be asked.

## Decisions

Decisions should be made by an impartial decision-maker. This will normally be someone who is not connected to the Complainant's club or the Respondent's club (where the parties come from different clubs), and someone who is not a friend, relative or business associate of either of the parties. The decision-maker should not have any interest in the result, i.e. it shouldn't be in the decision-maker's own interests to make the decision one way or the other. Where there is potential for a decision-maker to be considered biased, the responsibility for decision making should be elevated to a higher level to ensure independence and objectivity. If no one in the Club is truly independent of the situation (e.g. everyone is connected with each-other or involved in the issue) get an independent person to run the process.

In coming to a decision, the decision-maker should:

1. Give anyone who will be affected by the decision a chance to be heard – not just the Complainant and Respondent;
2. consider all relevant information (**before** any decision is made), and disregard all irrelevant information;
3. give appropriate "weight" to the evidence, particularly when one piece of evidence conflicts with another. A decision-maker may need to decide which of two conflicting statements is correct, and will usually use a "balance of probabilities" test; i.e. which story is more likely to be true? The more serious an allegation and the consequences however, the surer the decision-maker should be. Decision-makers will often refer to being "comfortably satisfied" (or not being comfortably satisfied) that a complaint has been made out.
4. Notify all parties of not only the decision, but the reasons for it, preferably in writing. Written decision leads to better clarity where there is less opportunity for confusion or misunderstanding.

Good decision making is supported by good communication. Where a decision maker can be pro-active and communicate in a prompt, reasonable, measured, and dispassionate way, parties are more likely to be satisfied.



## Appeals

Where there are a set of rules applicable to the complaint, there will often be a right to appeal the decision to a higher authority, such as a General Meeting of the Club, or to the Provincial Union. Parties should be told of these rights when the decision is released.

Even when there are no formal rules, it may be appropriate to deal with a complaint about a decision by referring it to someone independent for the decision to be reviewed. If this is done, it is important that all those involved are aware of what is intended – will the reviewer hear the whole matter again, or simply review the recorded information and decide whether the process was fair and the decision reasonable, will the reviewer's decision be final and binding?

If a decision is to be final, with no rights of review or appeal, it can be useful to have the parties acknowledge that at the outset.

Misconduct decisions under the Black Book can be appealed to the Union's Appeal Committee, and from there to NZR's Judicial Committee.

## Original Decisions

Complaints are often made about decisions that have been made earlier, and much of the advice above can be applied to those original decisions:

1. Give affected parties an opportunity to be heard before the decision is made;
2. Make decisions after considering all relevant information, and no irrelevant information;
3. Ensure the decision-maker does not have any conflict of interest;
4. Make decisions in an unbiased manner;
5. Communicate decisions and the reasons for them.

## New Zealand Rugby Complaints Management Service

NZR has an independent complaints management service through **0800 246 643** or <http://bit.ly/NZRComplaintsForm>. Please note however that the primary purpose of this service is to receive complaints and direct them to the appropriate rugby organisation for resolution. It is a good place to get advice about how to pursue a complaint, but it is not an alternative to rugby organisations dealing with the complaint, or a place where decisions can be appealed (so long as they have been made fairly).